

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

LaDestiny Eddington,

Plaintiff,

V.

American Accounts & Advisors,  
Inc.,

Defendant.

Civil Action File No.:

## COMPLAINT WITH JURY TRIAL DEMAND

## PRELIMINARY STATEMENT

This action for damages is based upon the Defendant's overt and intentional, unlawful conduct in the furtherance of its efforts to collect a consumer debt. The Defendant's conduct is in violation of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. 1692 *et seq.* and the Georgia Fair Business Practices Act, (GFBPA) O.C.G.A. 10-1-390 *et seq.*

## PARTIES

1. Plaintiff, LaDestiny Eddington, is a natural person who resides in Douglas County, Georgia.

2. Defendant, American Accounts Advisors, Inc., is a corporation formed under the laws of the State of Minnesota and registered to do business in Georgia. Defendant may be served with process via its registered agent, CT Corporation, 289 South Culver Street, Lawrenceville, GA 30046.

### **JURISDICTION AND VENUE**

3. This Court has federal question jurisdiction over Plaintiff's Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, claims pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d). This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.

4. This Court has personal jurisdiction over Defendant because, *inter alia*, Defendants frequently and routinely conducts business in the State of Georgia, including the conduct complained of herein.

5. Pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of Georgia because a substantial part of the events or omissions giving rise to the claims occurred in this district.

6. Pursuant to LR 3.1B(3), venue is proper in Atlanta Division because the Defendant maintains a registered agent in Gwinnett County which is in the Atlanta Division.

### **FACTUAL ALLEGATIONS**

7. Plaintiff is allegedly obligated to pay a consumer debt arising out of a medical visit and is therefore, a “consumer”, as that term is defined by 15 U.S.C. § 1692a(3).

8. Defendant’s principal business is the collection of consumer accounts for its commercial benefit. Defendant regularly collects, or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due, to a third party.

9. Defendant uses interstate commerce and/or mail in its business in the collection of consumer debts.

10. Defendant manages, and collects upon, thousands of consumer debt accounts annually.

11. Defendant is, therefore, a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).

12. Defendant had reported an account on Plaintiff’s credit report.

13. In September of 2020, Plaintiff communicated with Defendant via telephone and writing.

14. During this communication, Plaintiff let Defendant know that she did not believe this debt belonged to her and also that Plaintiff was unable to receive phone calls during her working hours of 8:30am and 5:00pm.

15. Despite receiving Plaintiff's communication that she disputed the debt, Defendant continued to report information about the alleged debt to Plaintiff's Equifax credit report in October of 2020 but failing to mark the debt as disputed.

16. Defendant reported credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

17. Defendant's conduct contained communications which were false, misleading, and deceptive in connection with the collection of a debt.

18. Also after receiving Plaintiff's request to not receive phone calls during working hours, upon information and belief, Defendant continued to make phone calls to Plaintiff during her working hours of 8:30am and 5:00pm.

19. Plaintiff was directly harmed by Defendant's actions.

20. Plaintiff suffered anxiety and worry that this disputed debt would stay on her credit report and that she would lose her job if she received phone calls at work.

21. Plaintiff suffered her anxiety and worry as a direct result of Defendant's credit reporting and phone calls.

22. Defendant's false representations about Plaintiff's credit history were published to third parties.

23. Plaintiff took time out of her day to seek legal counsel about Defendant's actions.

### **INJURIES-IN-FACT**

24. The FDCPA provides consumers with "statutorily-created rights to be free from 'being subjected to false, deceptive, unfair, or unconscionable means to collect a debt.'" *McCamis v. Servis One, Inc.*, No. 8:16-CV-1130-T-30AEP, 2016 U.S. Dist. LEXIS 99492 (M.D. Fla. July 29, 2016); *Church v. Accretive Health, Inc.*, 654 Fed. Appx. 990, 2016 U.S. App. LEXIS 12414, 2016 WL 3611543 (11th Cir. 2016).

25. An injury-in-fact sufficient to satisfy Article III standing requirements "may exist solely by virtue of statutes creating legal rights, the invasion of which creates standing." *Church*, at 993, quoting *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 373, 102 S. Ct. 1114, 71 L. Ed. 2d 214 (1982).

26. Violation of statutory rights are not a “hypothetical or uncertain” injury, but one “that Congress has elevated to the status of a legally cognizable injury through the FDCPA.” *McCamis*, at 4, citing *Church*, at 3.

27. Defendant is subjecting Plaintiff to false, deceptive, unfair, and unconscionable means to collect the debt.

28. Defendants acts and omissions caused particularized harm to the Plaintiff in that she was suffered worry and anxiety that these debts would remain on her credit report, Defendant published false information about Plaintiff to third parties causing damage to her reputation, and Plaintiff took uncompensated time to discuss her situation with counsel.

29. Accordingly, through the suffering of actual damages and a violation of Plaintiffs’ statutorily created rights under the FDCPA, Plaintiffs have suffered an injury-in-fact sufficient to establish Article III standing.

### **DAMAGES**

30. As a result of the Defendant’s actions and/or omissions, Plaintiff has suffered actual damages, including but not limited to the following:

a.) Being subjected to false, deceptive, unfair, and unconscionable debt collection practices;

b.) Uncompensated time expended away from work and/or activities of daily living, to confer with counsel regarding the Defendant's collection efforts; and,

c.) Anxiety and worry due to concerns that she might suffer repercussions at work due to receiving phone calls; and

d.) Having incorrect information about Plaintiff's credit worthiness published to third parties as a direct result of Defendant's actions.

## **CAUSES OF ACTION**

### **COUNT I**

#### **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

##### **15 U.S.C. § 1692 *et seq.***

31. Plaintiff incorporates by reference paragraphs 1 through 30 as though fully stated herein.

##### ***Violations of 15 U.S.C. § 1692c and subparts***

32. A debt collector may not, without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, communicate with a consumer in connection with the collection of any debt at a time or place known or which should be known to be inconvenient to the consumer.

33. A debt collector may not, without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, communicate with a consumer in connection with the collection of any debt at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

34. Defendant had direct and actual knowledge that the Plaintiff could not receive calls while at work without jeopardizing her position.

35. Defendant's call(s) as described herein violated 15 U.S.C. § 1692c(a)(3).

***Violations of 15 U.S.C. § 1692e and its subparts***

36. 15 U.S.C. § 1692e specifically prohibits the use of any false, deceptive, or misleading representations or means in connection with the collection of any debt.

37. The use of "or" in § 1692e means a representation violates the FDCPA if it is false or deceptive or misleading. *Bourff v. Rubin Lublin, LLC*, 674 F.3d 1238, 1241 (11th Cir. 2012).

38. The standard in determining the nature of any such representation is that of the "least sophisticated consumer." Its purpose is to protect "naive



consumers" with a minimal understanding of personal finance and debt collection. *LeBlanc v. Unifund CCR Partners*, 601 F.3d 1185, 1194 (11th Cir. 2010).

39. Moreover, the least sophisticated consumer is not to be held to the same standard as a reasonably prudent consumer. The least sophisticated consumer, though not unreasonable, is "ignorant" and "unthinking," "gullible," and of "below-average sophistication or intelligence," *Pinson v. JPMorgan Chase Bank, Nat'l Ass'n*, No. 16-17107, 2019 U.S. App. LEXIS 33662, at 12-13 (11th Cir. Nov. 12, 2019), quoting *Clomon v. Jackson*, 988 F.2d 1314, 1318 (2nd Cir. 1993).

40. A false representation in connection with the collection of a debt is sufficient to violate the FDCPA, even if it is not alleged or proven to be misleading or deceptive.

41. Defendant reported credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

42. Defendant's actions caused Plaintiff anxiety and worry, caused false information about her credit worthiness to be reported to third parties, and required Plaintiff to seek legal counsel about Defendant's actions.

43. Defendant's communications were in violation of 15 U.S.C. §§ 1692e, e(8), and e(10) among others.

44. As a result of Defendant's violations of the FDCPA, Defendant is liable to Plaintiffs for actual damages as described herein, statutory damages in the amount of \$1,000.00, costs of this action and reasonable attorney's fees as determined by the Court as mandated by 15 U.S.C. § 1692k.

## **COUNT II**

### **VIOLATIONS OF THE GEORGIA FAIR BUSINESS PRACTICES ACT**

#### **O.C.G.A. § 10-1-390, *et seq.***

45. Plaintiff incorporates by reference paragraphs 1 through 44 as though fully stated herein.

46. O.C.G.A. § 10-1-390 *et seq.* is commonly known as the "Fair Business Practices Act of 1975" (the "GFBPA").

47. The purpose of the GFBPA, is to protect consumers from unfair and/or deceptive practices in the conduct of any trade or commerce in part or wholly in the state. O.C.G.A. § 10-1-391.

48. O.C.G.A. § 10-1-391 directs that the GFPBA is to be interpreted and applied liberally and in harmony with the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), which implements the FDCPA.

49. O.C.G.A. § 10-1-393(a) of the GFBPA broadly prohibits unfair and/or deceptive business practices.

50. Defendant intentionally engaged in unfair and deceptive business practices, as set forth herein, in an effort to collect a consumer debt.

51. Defendant's conduct has implications for the consuming public in general.

52. Defendant's conduct negatively impacts the consumer marketplace.

53. Collecting a debt incurred during a consumer transaction could harm the general consuming public if conducted via deceptive acts or practices and clearly falls within the parameters of the GFBPA. Thus, a violation of the FDCPA constitutes a violation of the GFBPA. *See 1st Nationwide Collection Agency, Inc. v. Werner*, 288 Ga. App. 457, 459 (2007).

54. Upon information and belief, Defendant does not maintain a place of business in Georgia and has no assets in Georgia, thus relieving Plaintiffs of the Notice and Demand requirements of O.C.G.A. § 10-1-399(b).

55. As a result of Defendant's violations of O.C.G.A. § 10-1-393(a), Plaintiff is entitled to recover general damages pursuant to O.C.G.A. § 10-1-399(a).

56. As a result of Defendant's intentional violations of O.C.G.A. § 10-1-393(a), Plaintiff is entitled to recover exemplary damages pursuant to O.C.G.A. § 10-1-399(a).

57. As a result of Defendant's intentional violations of O.C.G.A. § 10-1-393(a), Plaintiff is entitled to recover treble damages pursuant to O.C.G.A. § 10-1-399(c).

58. Plaintiff is entitled to recover reasonable attorney's fees and expenses of litigation pursuant to O.C.G.A. § 10-1-399(d).

**TRIAL BY JURY**

59. Plaintiff is entitled to and hereby requests a trial by jury.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for:

- a.) Plaintiff's actual damages;
- b.) Statutory damages pursuant to 15 U.S.C. § 1692k;
- c.) Reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k
- d.) General, exemplary, and treble damages pursuant to O.C.G.A. § 10-1-399(a) & (c);
- e.) Reasonable attorney's fees and costs pursuant to O.C.G.A. § 10-1-399(d);
- and
- f.) Such other and further relief as may be just and proper.

Respectfully submitted this 9th day of November, 2020.

**BERRY & ASSOCIATES**

/s/ Matthew T. Berry

Matthew T. Berry

Georgia Bar No.: 055663

[matt@mattberry.com](mailto:matt@mattberry.com)

2751 Buford Highway, Suite 600

Atlanta, GA 30324

Ph. (404) 235-3300

Fax (404) 235-3333

/s/ Chris Armor

Christopher N. Armor

Georgia Bar No. 614061

P.O. Box 451328

Atlanta, GA 31145

Phone 470-990-2568

Fax 404-592-6102

[chris.armor@armorlaw.com](mailto:chris.armor@armorlaw.com)

Plaintiff's Attorneys